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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,550	12/22/1999	OLAF ERIK ALEXANDER ISELE	CM-1519Q	2485

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/446,550	Applicant(s) ISELE ET AL.	
	Examiner C. Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 14 March 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wu teaches a method to improve the breathability of a film laminate while maintaining the impermeability of the laminate. Dobrin discloses the desire for a breathable laminate that is impermeable to liquids, as described in column 6, lines 35-42. Therefore, the modification of the article of Dobrin in view of the teaching of Wu would be obvious to one of ordinary skill in the art to provide an improvement in the qualities of the laminate.

In response to the applicant's argument that Dobrin teaches away from providing cracks in the central region of the backsheet, it is noted that the cracks taught by Wu are significantly different structurally than the apertures of Dobrin. Dobrin discloses an apertured region comprising holes or perforations. The cracks disclosed by Wu are not fully formed holes or perforations, and therefore the impermeability of the film is maintained. Therefore, it is within the teachings of Dobrin to provide cracks in the

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central portion of the article, since the cracks do not comprise apertures such as those provided in the apertured portions of the article.

In response to the applicant's argument that there is no suggestion to make the central region of Dobrin have a MVTR value less than that of the outer regions since the central region of Dobrin is only less breathable than the outer regions because the central region is not apertured, it is noted that Dobrin, as modified by Wu, comprises cracks providing breathability to the entire laminate, which only the outer regions of the laminate comprise full apertures. Therefore, while the overall breathability of the laminate is improved by the teaching of Wu, the outer regions of the article still have a higher MVTR value since the outer regions comprise apertures in addition to cracks.

It is noted that Claim 15 is dependent on Claim 1, and therefore the applicant may rejoin the previously withdrawn Claim 15.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation of the roll pair comprising a greater number of engaging ridges and grooves the chassis region than in the core region. There is insufficient antecedent basis for this limitation in the claim. The roll pair has not been

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previously disclosed as having a chassis region or a core region, and therefore the claim is indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobrin et al. (5,628,737) in view of Wu et al. (5,865,926).

Dobrin discloses all aspects of the claimed invention with the exception of a particulate filler material imbedded in the polymeric film layer. Dobrin discloses an absorbent article 20, as shown in figure 2, comprising a core region 74, and a chassis region 76 surrounding the core region 74. The article 20 further comprises a laminate 95, as shown in figure 3, which extends into both the core region 74 and the chassis region 76 to form a core backsheet and a chassis backsheet. The laminate 95 comprises a polymeric film layer 26, as described in column 6, lines 42-43, and a fibrous layer 90, as described in column 9, lines 51-52. The laminate 95 is a breathable, unitary layer. The laminate 95 comprises apertures 84 in the chassis region 76, giving the chassis region 76 a higher degree of breathability than the core region 74, and therefore the MVTR value of the core region 74 is lower than that of the chassis region 76.

Wu discloses a breathable laminate for use in an absorbent article, as disclosed in column 4, lines 37-42, comprising a polymeric film layer and a fibrous layer, as described in column 2, lines 60-64. The polymeric film comprises a polymeric matrix and a particulate filler material, as disclosed in column 3, lines 2-17. The breathability of the laminate is enhanced by the formation of cracks around the particulate filler material, as disclosed in column 3, lines 19-21. The laminate is passed through a pair of rolls comprising ridges and grooves which provides a multiplicity of corrugations to the laminate, as disclosed in column 4, lines 51-65, and shown in figure 2.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the laminate of Dobrin using the polymeric film layer of Wu to increase the breathability of the laminate.

With respect to claim 2, Dobrin discloses the polymeric film layer 26 is wider than the fibrous layer 90, as described in column 10, lines 7-9.

With respect to claims 3 and 4, Wu discloses a MVTR of at least 500 g/24hr/m^2 , as described in Table II.

With respect to claims 5 and 6, Dobrin discloses all aspects of the claimed invention but remains silent as to how much greater the transmission rate of the chassis region is than the transmission rate of the core region. The chassis region is apertured to increase its breathability, and therefore has a higher transmission rate than the core region.

With respect to claim 7, Wu discloses the filler material is calcium carbonate, as described in column 3, lines 14-17.

With respect to claim 8, Wu discloses the laminate has a basis weight of about 64 gsm (Table II), and the nonwoven web has a basis weight of about 20 gsm (column 4, line 29), and therefore the basis weight of the polymeric layer is less than 50 gsm.

With respect to claim 9, Wu discloses the laminate has a basis weight of less than 70 gsm, as disclosed in Table II.

With respect to claim 10, Dobrin discloses the fibrous layer 90 is a non-woven web, as described in column 9, line 52, and Wu discloses a non-woven web in column 4, lines 10-12.

With respect to claims 11 and 13, Wu discloses combining the polymeric layer and the fibrous layer by thermobonding and adhesive bonding, as described in column 3, lines 5-8.

With respect to claim 12, Wu discloses the polymeric layer and the fibrous layer are combined by extrusion, as disclosed in column 6, lines 18-21.

With respect to claim 14, Dobrin discloses a baby diaper, as shown in figure 1.

With respect to claims 21 and 22, Dobrin discloses the polymeric layer 26 is a unitary layer extending both into the core and the chassis to form the backsheet material 95.

With respect to claim 23, Wu discloses the laminate has a basis weight of about 64 gsm (Table II), and the nonwoven web has a basis weight of about 20 gsm (column 4, line 29), and therefore the basis weight of the polymeric layer is greater than 25 gsm.

With respect to claim 24, Wu discloses the polymeric layer comprises a polymeric matrix and a particulate filler material, as disclosed in column 3, lines 35-38.

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With respect to claim 25, Wu discloses an activation process comprising passing the laminate through a roll pair comprising ridges and grooves, as shown in figure 2, to provide a multiplicity of grooves.

With respect to claim 26, due to the indefinite nature of the claim, it is the examiner's position that the disclosure of Wu anticipates the claim, since the chassis region comprises a greater surface area and therefore the roll pair that passes over the chassis region will inherently comprise a greater number of ridges and grooves.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UWA
cla
June 9, 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

